

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/SB 646

INTRODUCER: Regulated Industries Committee and Senator Wise

SUBJECT: Self-Storage Facilities

DATE: January 19, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Waters	Imhof	RI	Fav/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This Committee Substitute (CS) changes the notice requirements related to enforcing an owner’s lien against goods stored in a self-service storage facility. Specifically, it allows for notice by e-mail or first-class mail along with a certificate of mailing. It revises the provisions relating to when notice is presumed delivered. The CS requires that rental agreements and applications for rental agreements contain a provision disclosing whether the applicant is a member of the uniformed services.

This CS substantially amends the following sections of the Florida Statutes: 83.803, 83.806 and 83.808.

II. Present Situation:

The Florida Self-storage Facility Act in part III of ch. 83, F.S., controls the relationship between the owner of a self storage facility and a tenant. This act controls the enforcement of an owner’s lien, including the notice requirements for the sale of the personal property of the tenant who is in default.

Section 83.803(6), F.S., defines the term “last known address” to mean the address provided by the tenant in the latest rental agreement or the address provided by the tenant by hand delivery or certified mail in a subsequent written notice of a change of address.

Section 83.806 (1), F.S., requires a tenant to be notified of an enforcement of lien by written notice delivered in person or by certified mail to the tenant’s last known address and conspicuously posted at the self-service storage facility or on the self-contained storage unit. The notice must include:

- An itemized statement of the owner’s claim;
- A description of the personal property;
- A demand for payment within a specified time, not less than 14 days after delivery of the notice;
- A conspicuous statement that unless the claim is paid within the time stated in the notice the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place; and
- The name, street address, and telephone number of the owner whom the tenant may contact to respond to the notice.¹

Under s. 83.806(3), F.S., any notice given in the enforcement action is presumed delivered when it is deposited with the United States Postal Service, registered, and properly addressed with postage prepaid.

In the event of a sale, s. 83.806(8), F.S., requires the owner to provide notice of any balance remaining to the tenant either in person or by certified mail to the last known address of the tenant. If lienholders are involved, the owner must also provide a notice of the amount of the sale proceeds to the secured lienholders in person or by certified mail.

Under The Servicemembers Civil Relief Act, codified at 50 U.S.C. 537, military personnel called to active duty are protected against terminations of storage leases.

Self-storage facilities are required to send mail by United States Postal Service Certified Mail which allows the owner to find out when their item was delivered or when delivery was attempted. The Certificate of Mailing option provides the owner evidence of when the item was mailed and the date the mail was accepted.

III. Effect of Proposed Changes:

Section 1 amends s. 83.803(6), F.S., to expand the definition of last known address to include the street address, post office box, or e-mail address provided by the tenant or in a subsequent written change of address notice provided by first-class mail, or e-mail. The CS removes the provision for notice of change of address being provided by the tenant by certified mail.

Section 2 amends s. 83.806(1), F.S. to remove the requirement that a tenant be notified of the owner’s claim by certified mail. It allows written notice of a pending sale of property to be delivered in person, by e-mail, or by first-class mail along with a certificate of mailing.

¹ Section 83.806(2), F.S.

Specifically, if the owner notifies the tenant by e-mail, a response, return receipt, or delivery confirmation from the last known e-mail address of the tenant is required. If no response is forthcoming, the owner must send notice of the sale to the tenant's last known address by first-class mail along with a certificate of mailing, before proceeding with the sale.

The CS amends s. 83.806(3), F.S., altering the criteria of the presumption that the required notice was delivered to the tenant by removing the requirement that the notice be sent by registered mail.

The CS amends s. 83.806(8), F.S., to permit the owner to notify the tenant or secured lienholders of any balance remaining from the proceeds of a sale of property by first-class mail along with a certificate of mailing, and removes the reference to certified mail.

Section 3 amends s. 83.808(8), F.S., to require contract rental agreements or applications for a rental agreement to contain a provision disclosing whether the applicant is a member of the uniformed services as that term is defined in 10 U.S.C. s. 101(a)(5).

Section 4 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may lower the cost for owners of self-storage facilities with respect to providing the required notice to tenants and secured lienholders under the self storage facility act.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on January 19, 2012:

Provides a technical amendment that clarifies the language to ensure that a Certificate of Mailing is only required when sending first-class mail.

- B. **Amendments:**

None.